

REMARKS

The Examiner required restriction of one of the following inventions:

- I. Claims 1-30 drawn to an apparatus for a semiconductor device, classified in class 118, subclass 715.
- II. Claim 31 drawn to a method of reducing thermal disturbance during fabrication, classified in class 432, subclass 29.
- III. Claims 32-33 drawn to a method of exchanging heat, classified in class 165, subclass 168.

In response to the Examiner's Restriction/Election requirement, Applicants elects, with traverse, to prosecute Group I including claims 1-30. Applicants specifically reserves the right to file a divisional application directed to non-elected claims 31-33.

With respect to Applicant's traversal, Applicants respectfully directs the Examiner's attention to MPEP §803 which states:

“if the search and examination of the entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims to distinct or independent inventions.”

Emphasis Added.

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

“2) there must be a serious burden on the Examiner if a restriction is not required.” See MPEP §803.092, 806.04 A-J, 808.01 (a), and 808.02.

As evidence of undue burden, the Examiner has listed that class 118/subclass 715 is to be searched for Group I and, class 432/subclass 29 is to be searched for Group II, and class 165/subclass 168 is to be searched for Group III. In view of: i) the likelihood that a significant portion of the patents belonging in class 118/subclass 715 would be classified in class

432/subclass 29 and/or class 165/subclass 168; and ii) the fact that the computer searching software used by the Examiner enables the Examiner to combine the search for patents in multiple subclasses without having to view duplicates. The search of extra subclasses would not place any undue burden upon the Examiner to consider claims 30-33.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of Groups I, II and III in the instant application are earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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